

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
WEIGHTS AND STANDARDS



COMPLIANCE AUDIT

ISSUED DECEMBER 12, 2007

**LEGISLATIVE AUDITOR
1600 NORTH THIRD STREET
POST OFFICE BOX 94397
BATON ROUGE, LOUISIANA 70804-9397**

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STEVE J. THERIOT, CPA
LEGISLATIVE AUDITOR

OFFICE OF
LEGISLATIVE AUDITOR
STATE OF LOUISIANA
BATON ROUGE, LOUISIANA 70804-9397

1600 NORTH THIRD STREET
POST OFFICE BOX 94397
TELEPHONE: (225) 339-3800
FACSIMILE: (225) 339-3870

December 12, 2007

Mr. Johnny B. Bradberry, Secretary
Department of Transportation and Development -
Weights and Standards
Post Office Box 94245
Baton Rouge, Louisiana 70804-9245

Dear Mr. Bradberry:

We have audited certain transactions of the Department of Transportation and Development's (DOTD) Weights and Standards Scales. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the propriety of certain allegations regarding overtime practices at the scales.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required of an audit by *Government Auditing Standards*; therefore, we are not offering an opinion on DOTD's financial statements or system of internal control nor assurance as to compliance with laws and regulations. The concerns and results of our audit are listed below for your consideration.

Background

DOTD's Weights and Standards Division operates 12 stationary weigh scales throughout the state. Each scale is staffed with police officers from the Weights and Standards Stationary Scales Inspection Police Force created to enforce the provisions of Louisiana Revised Statutes (R.S.) 32:380 through 32:389 and R.S. 47:718 relating to size, width, height, length, weight, and load of vehicles in regular operation. Members of the police force are authorized to enforce these laws and regulations. As part of our audit, we noted that the police officers were paid allotted amounts of overtime to cut grass (lawn maintenance) at the scales. We offer the following comments and recommendations:

Questionable Overtime Practices

According to practice, the police officers can volunteer for lawn maintenance at their location and receive up to eight hours of paid overtime and/or compensatory time. The police officers maintain the lawn at 10 of the 12 stationary weigh scales and usually perform lawn maintenance from January through October. From January 2005 to June 2007, DOTD paid police officers \$72,417 in overtime wages and 265 hours in compensatory time for lawn maintenance. During our examination of these payments,

we noted that officers who performed lawn maintenance did not record actual times spent maintaining the lawn, but rather in many cases were allotted up to eight hours of overtime (depending on the location) each instance the lawns were maintained. As a result of these payments, DOTD may have violated Article VII Section 14 of the Louisiana State Constitution by paying officers an allotment of hours rather than paying for actual hours worked.

DOTD policy allows employees who work in excess of 40 hours per week to either receive compensatory time (hour for hour time off) and/or be paid overtime in the amount of one and one half times their regular rate of pay. We reviewed January 2005 through June 2007 time sheets for police officers who received overtime for performing lawn maintenance. According to those time sheets, all time spent performing lawn maintenance was recorded as overtime. As a result, police officers claimed a total of 265 hours of compensatory time and received overtime payments totaling \$72,417. Based on the officers' salaries, which differ because of rank and number of years of service, DOTD paid overtime rates ranging from \$16.69 to \$31.70 per hour for lawn maintenance.

Although each location is different in size, at seven of the 10 stations police officers recorded eight hours of overtime each time they performed lawn maintenance. Of the 3,239 hours in which overtime and/or compensatory time was recorded for lawn maintenance, eight hours was recorded 360 (88%) times. We interviewed several officers at the Greenwood location. Although each officer recorded and received eight hours of overtime for lawn maintenance, each officer indicated that it took between four to six hours to cut the grass. Conversely, Lt. Chris Kay, managing officer of the location, indicated that it always takes him eight hours to perform lawn maintenance. He explained that he generally performed the lawn maintenance on Saturdays from 3 a.m. to 11 a.m.

According to Attorney General Opinion No. 07-0134, DOTD may have violated Article VII, Section 14 of the Louisiana State Constitution by allowing employees to be paid for time when services were not rendered. The opinion outlines a three-prong test to determine whether payments are constitutional:

1. A public purpose for the expenditure or transfer
2. The expenditure or transfer, taken as a whole, does not appear to be gratuitous
3. Evidence demonstrating that the public entity has a reasonable expectation of receiving a benefit or value at least equivalent to the amount expended or transferred

The practice of paying an allotted number of overtime hours for lawn maintenance does not appear to meet these requirements because it allows officers to be paid for hours not worked. Payments for hours not worked do not have a public purpose, appear to be gratuitous, and do not provide a value equivalent to the amount expended.

We recommend that DOTD:

- (1) require employees to record actual hours worked;
- (2) pay overtime wages based on hours worked; and
- (3) implement written policies and procedures for performing duties outside the normal scope of work to include when an employee is required to work overtime to perform lawn maintenance.

This correspondence represents our finding and recommendations as well as management's response. This correspondence is intended primarily for the information and use of management of DOTD. I trust this information will assist you in the efficient and effective operations of the Weights and Standards Scales. Should you have any questions, please contact me at (225) 339-3800 or Mr. Dan Daigle at (225) 339-3808.

Sincerely,



Steve J. Theriot, CPA
Legislative Auditor

CM:GC:DD:dl



STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
P.O. Box 94245
Baton Rouge, Louisiana 70804-9245

www.dotd.louisiana.gov



KATHLEEN BABINEAUX BLANCO
GOVERNOR

JOHNNY B. BRADBERRY
SECRETARY

November 26, 2007

Mr. Steve J. Theriot, CPA
Legislative Auditor
Office of Legislative Auditor
P.O. Box 94397
Baton Rouge, LA 70804-9397

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LEGISLATIVE AUDITOR
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Dear Mr. Theriot:

This is in response to the compliance audit findings on the Department of Transportation and Development's Weights and Standards Scales. We have reviewed the draft of the compliance audit of DOTD which was transmitted with your letter dated November 14, 2007. We appreciate the opportunity to respond to the findings in the report. The following is a summary of the actions DOTD has taken to address the findings of this audit:

- A written policy defining how overtime hours for lawn maintenance are to be recorded and compensated for has been distributed.
- Alternatives are being explored relative to maintaining the lawns at the weigh stations. These include, but are not limited to, contract mowing companies, professional lawn services and DOTD maintenance employees.
- A more comprehensive collection of policies and procedures related to the performance of duties outside the normal scope of work is forthcoming and will be instituted no later than December 31, 2007.

We have included a copy of the policy which was issued to the Weights and Standards Scales personnel to clarify the use of overtime for lawn maintenance.

We appreciate the thoroughness and professionalism of the staff that conducted this investigation. If I can be of further assistance or if any additional information is needed to clarify our response, please feel free to contact me or Mr. Michael Bridges, Undersecretary, at (225) 379-1270.

Sincerely,

Johnny B. Bradberry
Secretary

Enclosure

pc: Bill Temple, Chief Engineer
Michael Bridges, Undersecretary

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KATHLEEN BABINEAUX BLANCO
GOVERNOR

STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
Weights and Standards

Weight Enforcement and Truck Permit Office
1201 Capitol Access Road
Post Office Box 94042
Baton Rouge, Louisiana 70804-9042

(225) 377-7131



JOHNNY B. BRADBERRY
SECRETARY

MEMORANDUM

TO: Weight Enforcement Weigh Station Personnel

FROM: Denny J. Silvio *DJS*
DOTD Weights & Standards Administrator

SUBJECT: Weigh Station Lawn Maintenance Pay Policy

DATE: November 19, 2007

The following is our Weigh Station Facility Lawn Maintenance Policy related to pay:

1. Participating Weight Enforcement employees shall record the actual hours they work.
2. Paid overtime wages will be based on actual hours worked per occasion, not to exceed a total of four (4) hours at single facility locations and eight (8) hours at dual facility locations.

DJS: bnl

Cc: Janice Williams
Mac Linton
Ronnie Randall
Howard Giroir